

AMENDED IN ASSEMBLY MAY 17, 2004

AMENDED IN SENATE MAY 12, 2003

AMENDED IN SENATE APRIL 28, 2003

**SENATE BILL**

**No. 898**

**Introduced by ~~Senators Burton and Machado~~ Senator Burton**

February 21, 2003

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*An act to amend Sections 35277 and 35278 of the Education Code, relating to ~~land conservation~~ school districts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 898, as amended, Burton. ~~Open space and agricultural land~~  
*Schoolsite replacement housing.*

*Existing law authorizes a local governing agency, as defined, to acquire property to replace existing dwelling units displaced by school construction if certain conditions are met and requires that displaced persons be given a right of first refusal to purchase or rent the replacement dwelling units.*

*This bill would also permit an elementary school district, community college district, or an eligible nonprofit corporation, as defined by the bill, to replace existing dwelling units displaced by school construction.*

~~The Planning and Zoning Law authorizes a city or county to adopt ordinances that regulate the intensity of land use and requires every city and county to prepare and adopt an open-space zoning ordinance consistent with an open-space plan that provides for, among other things, the continued availability of land for the production of food and fiber.~~

~~This bill would declare the intent of the Legislature to enact legislation that would provide long-term protection for California's~~

~~productive agricultural lands and the viability of this important sector of the California economy.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1.—The Legislature finds and declares all of the~~

*SECTION 1. Section 35277 of the Education Code is amended to read:*

35277. For purposes of this article the following terms have the following meanings:

(a) “Affordable housing cost” has the same meaning as set forth in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code as applied to persons and families of low or moderate income.

(b) “Affordable rent” has the same meaning as set forth in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code as applied to persons and families of low or moderate income.

(c) “Extremely low income households” has the same meaning as set forth in Section 50106 of the Health and Safety Code.

(d) “Local governing agency” means a city in which a new schoolsite is located, or if a new schoolsite is located in an unincorporated area, the county in which the new schoolsite is located.

(e) *“Eligible nonprofit corporation” means a nonprofit public benefit corporation, nonprofit mutual benefit corporation, or a limited liability company in which the managing member is a nonprofit public benefit corporation or a nonprofit mutual benefit corporation.*

(f) “New schoolsite” means real property acquired by a school district on and after January 1, 2003, for construction of a new schoolsite or for expansion of an existing schoolsite

~~(f)—~~

(g) “New schoolsite replacement housing” means housing to replace the residential dwelling units demolished or to be demolished in connection with a new schoolsite.

~~(g)—~~

(h) “Persons and families of low income” has the same meaning as set forth in Section 50093 of the Health and Safety Code.

~~(h)~~

(i) “Persons and families of low or moderate income” has the same meaning as set forth in Section 50093 of the Health and Safety Code.

~~(i)~~

(j) “Very low income households” has the same meaning as set forth in Section 50105 of the Health and Safety Code.

~~(j)~~

(k) “Vicinity of a new schoolsite” means the area within the census tract in which a new schoolsite is located and the areas within the immediately adjacent census tracts.

SEC. 2. *Section 35278 of the Education Code is amended to read:*

35278. (a) If ~~a school~~ *an elementary school district or community college district* has acquired a new schoolsite containing residential dwelling units, the local governing agency, *elementary school district, community college district, or an eligible nonprofit corporation* may, consistent with this article, acquire real property for the purpose of new schoolsite replacement housing and utilize or convey the property according to this article, if all of the following conditions are met:

(1) ~~The local governing agency~~ *elementary school district or community college district* has determined that an extreme shortage of affordable housing exists in the vicinity of the new schoolsite.

(2) The real property to be used for replacement housing is acquired by the local governing agency, *elementary school district, community college district, or an eligible nonprofit corporation* in the vicinity of a new schoolsite, or in an area designated in the local governing agency’s replacement housing plan adopted pursuant to paragraph (1) of subdivision (e), within two years of the school district’s acquisition of a possessory right to the new schoolsite.

(3) The combined area of the real property to be used for replacement housing acquired by the local governing agency, *elementary school district, community college district, or an eligible nonprofit corporation* pursuant to this article does not

1 include any portion of the new schoolsite and does not, in acreage,  
2 exceed 150 percent of the area acquired by the school district for  
3 the new schoolsite.

4 (b) A local governing agency, *elementary school district*,  
5 *community college district*, or an *eligible nonprofit corporation*  
6 may rehabilitate, develop, or construct residential facilities on the  
7 property for the purpose of providing new schoolsite replacement  
8 housing as set forth in this article.

9 (c) Notwithstanding Article 8 (commencing with Section  
10 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the  
11 Government Code or any other provision of law, a local governing  
12 agency, *elementary school district*, *community college*, or an  
13 *eligible nonprofit corporation* that has acquired real property for  
14 new schoolsite replacement housing pursuant to this article may  
15 convey the property to an affiliated public agency for the purpose  
16 of providing new schoolsite replacement housing. An affiliated  
17 public agency that has acquired real property pursuant to this  
18 section may rehabilitate, develop, or construct residential facilities  
19 on the property for the purpose of providing new schoolsite  
20 replacement housing in compliance with this article.

21 (d) Notwithstanding Article 8 (commencing with Section  
22 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the  
23 Government Code or any other provision of law, a local governing  
24 agency, *elementary school district*, *community college district*,  
25 *eligible nonprofit corporation*, or an affiliated public agency, that  
26 has acquired real property for new schoolsite replacement housing  
27 pursuant to this article, may sell, lease for no more than 99 years,  
28 jointly develop, exchange, subdivide, transfer, assign, pledge,  
29 encumber by mortgage, deed of trust, or otherwise, or otherwise  
30 dispose of the real property or any interest in that property, or any  
31 portion thereof, for the purpose of providing new schoolsite  
32 replacement housing through the rehabilitation, development, or  
33 construction of residential facilities or combined residential and  
34 commercial facilities on that property.

35 (e) (1) Any disposition of real property, pursuant to  
36 subdivision (d), acquired for new schoolsite replacement housing  
37 pursuant to this article shall be in furtherance of a replacement  
38 housing plan. The local governing agency, *elementary school*  
39 *district*, or *community college district* shall adopt a replacement

1 housing plan for disposition of real property pursuant to this  
2 article, which shall meet all of the following requirements:

3 (A) The replacement housing plan shall include all of the  
4 following:

5 (i) A statement of the general location of housing to be  
6 developed pursuant to this section.

7 (ii) A description of the means of financing the development.

8 (iii) A finding that the actions to be taken pursuant to the plan  
9 do not require approval of the voters pursuant to Article XXXIV  
10 of the California Constitution, or that the approval has been or will  
11 be obtained.

12 (iv) A specification of the number of dwelling units housing  
13 persons and families of low income and persons and families of  
14 moderate income, respectively, that are planned for construction  
15 or rehabilitation.

16 (v) Provisions to ensure that persons displaced by the  
17 acquisition of a new schoolsite, and the acquisition of the new  
18 schoolsite replacement housing property pursuant to this article,  
19 shall have a right of first refusal for the purchase or rental of  
20 dwelling units developed in the replacement housing.

21 (vi) A description of any facilities for commercial use to be  
22 constructed in combination with the replacement housing.

23 (B) The number of dwelling units to be developed on the  
24 combined area of real property acquired pursuant to this article  
25 will be equal to a prescribed percentage, as determined by the local  
26 governing agency, *elementary school district, or community*  
27 *college district*, but in no event less than the sum of both of the  
28 following:

29 (i) Seventy-five percent of the total number of dwelling units  
30 demolished or to be demolished in connection with construction  
31 or expansion of school facilities on the new schoolsite.

32 (ii) The total number of dwelling units on the new schoolsite  
33 replacement housing property to be acquired pursuant to this  
34 article.

35 (C) Unless the local governing agency elementary school  
36 district, or community college district prescribes a greater number  
37 pursuant to subparagraph (D), the number of dwelling units  
38 developed on the property acquired for new schoolsite  
39 replacement housing pursuant to this article that are available at

1 affordable housing costs or affordable rents shall be greater than,  
2 or equal to, the lesser of either of the following:

3 (i) A number equal to 50 percent of the dwelling units  
4 developed on the property acquired for new schoolsite  
5 replacement housing pursuant to this article.

6 (ii) The number of households of persons and families of low,  
7 or moderate, income displaced by the acquisition of the new  
8 schoolsite property and by the acquisition of the property for new  
9 schoolsite replacement housing pursuant to this article.

10 (D) A local governing agency, elementary school district, or  
11 community college district may require that all or any portion of  
12 the dwelling units, in addition to those required under  
13 subparagraph (C), be available at affordable housing cost or  
14 affordable rent to persons and families in lower income categories,  
15 including, persons and families of low income, very low income,  
16 or extremely low, income. This section does not prohibit a local  
17 governing agency, elementary school district, or community  
18 college district from participating financially or otherwise to  
19 enable any housing developed pursuant to this article to serve  
20 households of lower income if the need for that housing is  
21 identified in, and consistent with, the replacement housing plan.

22 (2) For a reasonable period of time prior to adopting the  
23 replacement housing plan, the agency, elementary school district,  
24 or community college district shall make available a draft of the  
25 proposed plan for review and comment by public agencies and the  
26 general public.

27 ~~following:~~

28 ~~(a) Stewardship of California's rich and productive soils is an~~  
29 ~~essential part of ensuring the long-term, sustainable economic~~  
30 ~~growth of this state.~~

31 ~~(b) The long-term conservation of open space and agricultural~~  
32 ~~land is critical to the welfare of the people of California.~~

33 ~~(c) The long-term conservation of agricultural land will benefit~~  
34 ~~urban areas by ensuring that a steady supply of high quality,~~  
35 ~~low cost fresh foods are available to urban residents and by~~  
36 ~~conserving world-class agricultural soils.~~

37 ~~SEC. 2. It is the intent of the Legislature to enact legislation~~  
38 ~~that would provide long-term protection for California's~~

1 ~~productive agricultural lands and the viability of this important~~  
2 ~~sector of the California economy.~~

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